

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Minnesota Life Insurance Company,
Securian Financial Group, Inc., Securian
Funds Trust, and Securian Foundation

File No.: 12-Civ.-02671 (ADM/LIB)

Plaintiffs,
vs.

Credit Suisse First Boston Mortgage
Securities Corp., Credit Suisse Securities
(USA) LLC (f/k/a Credit Suisse First
Boston, LLC), and DLJ Mortgage
Capital, Inc.

**AFFIDAVIT OF SARAH E.
MADSEN IN RESPONSE TO
DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO FILE
ANSWER OR OTHERWISE
RESPOND TO COMPLAINT**

Defendants.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Sarah E. Madsen, having been first sworn upon oath, states as follows:

1. I am an attorney with Larson • King, LLP., and one of the attorneys representing Plaintiffs Minnesota Life Insurance Company, Securian Financial Group, Inc., Securian Funds Trust and Securian Foundation in this action. I submit this affidavit in association with Plaintiffs' Response to Defendants' Motion to Extend Date to Answer or Otherwise Respond to Complaint.

2. On or about October 18, 2012, Defendants filed a Notice of Removal, removing the above-captioned action, which was initially filed in the District Court for the Second Judicial District of Minnesota, County of Ramsey, File No. 62-CV-12-7339.

3. Defendants removed this action under 28 U.S.C. §§ 1334 (b), 1441, 1452(a) and 1146. Plaintiffs contest federal court jurisdiction and believe this case should be adjudicated by the District Court for the Second Judicial District of Minnesota, County of Ramsey.

4. Prior to the removal of this action, the parties executed a Stipulation dated October 9, 2012 (“State Court Stipulation”), attached as Exhibit A to the Aff. of Brooks Poley, ECF No. 6, whereby the parties agreed to establish December 3, 2012 as the date upon which Defendants shall answer or otherwise respond to the Complaint in this action. The State Court Stipulation further provided that if Defendants elect to move to dismiss the Complaint, by December 3, 2012, Defendants shall obtain a hearing date, and serve upon Plaintiffs, *inter alia*, a Notice of Motion and Motion, a Memorandum of law, any affidavits and exhibits to be submitted in conjunction with the Motion, and a proposed Order. State Court Stipulation at ¶¶ 1-2.

5. Pursuant to State Court Stipulation, the parties further agreed that “[n]either Plaintiffs nor Defendants waive their rights to seek from each other or the Court additional adjournments or extensions of the deadlines; and the entry into this agreement and submission of this stipulation shall not waive, and the parties expressly preserve, all rights, claims and defenses.” *Id.* at ¶ 3.

6. On or about October 24, 2012, Defendants’ counsel, Brooks Poley, requested that counsel for Plaintiffs execute a *draft* Stipulation, which is attached as Exhibit B to the Aff. of Brooks Poley, ECF No. 6. The draft Stipulation was intended to

memorialize and renew in the United States District Court for the District of Minnesota the same terms as were contained in the State Court Stipulation.

7. On October 25, 2012, I spoke Defendants' counsel, Brooks Poley, and advised him that, out of an abundance of caution, Plaintiffs' counsel would not sign the *draft* Stipulation, because they did not want their signature on the *draft* Stipulation to be construed in any way as an affirmative act which might adversely impact Plaintiffs' right to seek remand of this action. I further reiterated Plaintiffs' intention to preserve their right to remand under all circumstances.

8. Plaintiffs do not assent in any way to the federal court jurisdiction of this action and intend to move to remand this action to state court on or before November 19, 2012, the deadline for filing a Motion for Remand.

9. As evidence of Plaintiffs' intent to move to remand, on November 6, 2012, the parties satisfied their meet and confer obligation related to Plaintiffs' Motion for Remand.

10. As further evidence of Plaintiffs' intent to file a motion for remand, Plaintiffs have scheduled the hearing for Plaintiffs' Motion for Remand to occur on January 23, 2012 at 9:00 a.m. before Judge Montgomery, and will file their motion, notice of hearing, memorandum of law, and supporting materials consistent with 28 U.S.C. § 1447(c) and Local Rule 7.1(a) and (c).

FURTHER YOUR AFFIANT SAYETH NOT.

Dated: November 7, 2012.

/s/ Sarah E. Madsen

Sarah E. Madsen (#0336804)

Subscribed and sworn to before
me this 7th day of November, 2012.

/s/ Michelle Hyatt

Notary Public